

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0835-IHW-E **TCEQ ID:** RN100647551 **CASE NO.:** 33536
RESPONDENT NAME: Airborn, Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Airborn, 4321 Airborn Drive, Addison, Dallas County</p> <p>TYPE OF OPERATION: Electrical connector manufacturing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Waste Enforcement Section, Enforcement Team 7, MC 128, (512) 239-0086; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Richard Sunderland, Vice President, Airborn, Inc., 4321 Airborn Drive, Addison, Texas 75001 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 1, 2007</p> <p>Date of NOE Relating to this Case: March 13, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WASTE</p> <p>Failed to send the waste to an authorized facility for disposal/management. Specifically, approximately 3,500 gallons of non-hazardous industrial solid waste was sent to the Michael Martin & Associates dba Effluent Recycling site on September 9, October 10, November 16, and December 16, 2006. [30 TEX. ADMIN. CODE § 335.2(b)].</p>	<p>Total Assessed: \$3,000</p> <p>Total Deferred: \$600 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,400</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent ensured all industrial solid waste generated at the Facility was removed from the Michael Martin & Associates dba Effluent Recycling site and properly disposed of on February 12, 2007.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	19-Mar-2007	Screening	16-May-2007	EPA Due	
	PCW	25-May-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Airborn, Inc.		
Reg. Ent. Ref. No.	RN100647551		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33536	No. of Violations	1
Docket No.	2007-0835-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Colin Barth
Multi-Media		EC's Team	EnforcementTeam 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
		\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes

The Respondent has no record of any previous NOV's or Orders at this site in the past five years.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25%

Reduction

Subtotal 5 \$1,000

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance on February 12, 2007.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$50

Approx. Cost of Compliance \$2,339

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$3,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$3,000

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$3,000

DEFERRAL

20%

Reduction

Adjustment -\$600

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,400

Screening Date 16-May-2007

Docket No. 2007-0835-IHW-E

PCW

Respondent Airborn, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33536

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100647551

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has no record of any previous NOVs or Orders at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 16-May-2007

Docket No. 2007-0835-IHW-E

PCW

Respondent Airborn, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33536

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100647551

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.2(b)

Violation Description

As generator of the waste, Airborn failed to send the waste to an authorized facility for disposal/management, as documented during an investigation conducted on March 1, 2007. Specifically, approximately 3,500 gallons of non-hazardous industrial solid waste was sent to the Michael Martin & Associates dba Effluent Recycling site on September 9, October 10, November 16, and December 16, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

161 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$4,000

Four single events are recommended, one for each unauthorized shipment.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent Airborn, Inc.
Case ID No. 33536
Reg. Ent. Reference No. RN100647551
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,339	9-Sep-2006	12-Feb-2007	0.4	\$50	n/a	\$50

Notes for DELAYED costs

Estimated cost to remove and properly dispose of industrial solid waste from the date of the first unauthorized shipment to the date the respondent achieved compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,339

TOTAL

\$50

Compliance History

Customer/Respondent/Owner-Operator:	CN603162439 AIRBORN, INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN100647551 AIRBORN	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD987981792
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	37472
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB1895J
Location:	4321 AIRBORN DR, ADDISON, TX, 75001	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	May 15, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 15, 2002 to May 15, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Colin Barth Phone: 512 239 0086

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/12/2007 (540356)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AIRBORN, INC.
RN100647551**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0835-IHW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Airborn, Inc. ("Airborn") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Airborn appear before the Commission and together stipulate that:

1. Airborn owns and operates an electrical connector manufacturing facility at 4321 Airborn Drive in Addison, Dallas County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and Airborn agree that the Commission has jurisdiction to enter this Agreed Order, and that Airborn is subject to the Commission's jurisdiction.
4. Airborn received notice of the violations alleged in Section II ("Allegations") on or about March 18, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Airborn of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Dollars (\$3,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Airborn has paid Two Thousand Four Hundred Dollars (\$2,400) of the administrative penalty and Six Hundred

Dollars (\$600) is deferred contingent upon Airborn's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Airborn fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Airborn to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Airborn have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Airborn ensured all industrial solid waste generated at the Facility was removed from the Michael Martin & Associates dba Effluent Recycling site and properly disposed of on February 12, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Airborn has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As generator of the waste, Airborn failed to send the waste to an authorized facility for disposal/management, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on March 1, 2007. Specifically, approximately 3,500 gallons of non-hazardous industrial solid waste was sent to the Michael Martin & Associates dba Effluent Recycling site on September 9, October 10, November 16, and December 16, 2006.

III. DENIALS

Airborn generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Airborn pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Airborn's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Airborn, Inc., Docket No. 2007-0835-IHW-E " to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Airborn. Airborn is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Airborn in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Airborn, or three days after the date on which the Commission mails notice of the Order to Airborn, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/29/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Richard Sunderland
Signature

6/26/07
Date

RICHARD SUNDERLAND
Name (Printed or typed)
Authorized Representative of
Airborn, Inc.

VP
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

